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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK DIVISION

JOHN SACCHI and STEPHEN SIMONI,	:	Civ. No. 2017-_____
Individually and on behalf	:	
of all others similarly	:	
situated,	:	
	:	COMPLAINT
Plaintiffs,	:	
	:	CLASS ACTION
vs.	:	
	:	JURY TRIAL DEMANDED
UNITED CONTINENTAL HOLDINGS, INC.,	:	
UNITED AIRLINES, INC., and	:	
DOES 1 through 10, inclusive,	:	
	:	
Defendants.	:	
	:	
	:	
	:	

**UNITED CONTINUES TO BREACH COUNTLESS CONSUMER CONTRACTS
BY USE OF IDENTICAL WEBSITE LANGUAGE FOR MANY MONTHS
DESPITE NUMEROUS COMPLAINTS AND UNITED REFUSES TO PAY
ANY INDIVIDUAL CONSUMERS WHO REQUEST THEIR RIGHTFUL REFUND**

While United Airlines, Inc. may have recently
promised to no longer forcibly remove paid passengers from
their respective seat, United continues to breach with

impunity its written contract that "[n]o **change fee will be required**" for passengers who "[c]hoose to cancel" a flight and use the ticket's value toward another United flight within one year. United.com website (attached hereto as Exhibit A (emphasis in original)).

Passengers who contemplate cancelling their flight learn on United's website that they may do so without incurring a fee as long as they use the flight's value towards another United flight within one year of the original ticket's issuance. After passengers click the "Choose to cancel" button that appears directly below this explanation on the United.com website, the flight is—as promised—irreversibly cancelled; but when the passengers proceed to use the flight's value on another United flight, **a minimum \$125.00 fee per passenger is then required to book that other flight**, which constitutes a blatant breach of the "[n]o change fee will be required" agreement. United, significantly, effectively requires exclusive use of its website and reinforces the need to read-before-clicking by explaining that passengers "save money by changing or cancelling [the] reservation online, as a service charge applies to all changes made by phone."

United's website routinely makes these contracts that its reservation systems and personnel have no intention of honoring when the passenger later attempts to use the value of the original ticket to purchase a new flight. Even worse, United has continued this systematic practice for many months despite multiple complaints by

consumers nationwide and the provision of a draft court Complaint of the instant action this past spring. Instead, United ***continues to execute contracts through the height of the busy summer travel season with countless consumers*** on its website by assuring them with the identical statement that "[n]o change fee will be required" if the subject flight is cancelled and then—only after the consumer proceeds to irreversibly cancel the flight—United imposes a fee of \$125.00 to \$200.00 ***per passenger*** to use the cancelled flight's value towards a new flight.

Plaintiffs, individually and on behalf of the Class defined below, bring this action for damages, restitution, statutory damages, punitive damages, sanctions, interest, court costs, attorneys' fees, and injunctive relief for United's contract breaches. Plaintiffs demand a trial by jury and complain and allege as follows:

INTRODUCTION

1. Defendants United Airlines, Inc. and United Continental Holdings, Inc. (collectively, "**Defendants,**" "**United,**" or "**Company**") are corporations incorporated in Delaware and headquartered in Illinois that market and sell airline travel throughout the world.

2. Plaintiffs bring this action to challenge the Company's ongoing systematic practice in breaching its contracts with thousands of consumers nationwide.

3. All of the claims asserted herein arise out of Company's contract breaches and are a common fact pattern as to each member of the Class defined below.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. section 1332(d). This is a proposed class action involving more than one hundred (100) class members, at least one class member resides in a state different than Defendants, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interests and costs. This Court has jurisdiction over the Company in this action because it solicits, sells, and provides airline travel throughout New Jersey where it operates the largest "hub" in its worldwide network and from where Plaintiffs cancelled the flights at issue that were scheduled to depart from New Jersey and purchased new flights that departed from New Jersey for which a \$125.00 charge per passenger was imposed above the flight price.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. section 1391(b) and (c) in that Company solicits, sells, and provides airline services within the District of New Jersey's Newark Division and the subject flights giving rise to the action transpired here.

THE PARTIES

6. Plaintiffs ("**Plaintiffs**") are adult males who reside outside Delaware and Illinois.

7. Defendant United Airlines, Inc. is a corporation incorporated in Delaware and headquartered in Illinois. Defendant United Continental Holdings, Inc. is a corporation incorporated in Delaware and headquartered in Illinois.

8. Except as described herein, Plaintiffs are ignorant of the true names of Defendants sued as Does 1 through 10, inclusive, and the nature of their wrongful conduct, and therefore sues these Defendants by such fictitious names. Plaintiffs will seek leave of the Court to amend this complaint to allege their true names and capacities when ascertained.

9. At all times herein mentioned, United Airlines, Inc., United Continental Holdings, Inc., and the Doe Defendants, and each of them, were an agent or joint venturer of each of the other, and in doing the acts alleged herein, were acting within the scope of such agency. Each Defendant had actual and/or constructive knowledge of the acts of each of the other Defendants, and ratified, approved, joined in, acquiesced and/or authorized the wrongful acts of each co-Defendant, and/or retained the benefits of said wrongful acts.

10. Defendants, and each of them, aided and abetted, encouraged and rendered substantial assistance to the other Defendants in committing the wrongful acts alleged herein.

In taking action, as particularized herein, to aid and abet and substantially assist the commission of these wrongful acts and other wrongdoing complained of, each of the Defendants acted with an awareness of its primary wrongdoing and realized that its conduct would substantially assist the accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

11. At all times herein mentioned, Defendants conspired by means of mutual understanding, either expressly or impliedly, among themselves and others in engaging and/or planning to engage in the activities detailed herein to accomplish the wrongful conduct, wrongful goals, and wrongdoing.

FACTUAL ALLEGATIONS

12. In or about June 2017, Plaintiffs contracted with United to cancel their flight on United.com pursuant to United's statement that "**[n]o change fee will be required**" for passengers who "[c]hoose to cancel" a flight and use the ticket's value toward another United flight within one year. United, significantly, effectively required Plaintiffs' exclusive use of its website and reinforced the need to read-before-clicking by explaining that passengers "save money by changing or cancelling [the] reservation online, as a service charge applies to all charges made by phone." United.com website (attached hereto as Exh. A (emphasis in original)).

13. After Plaintiffs clicked the "Choose to cancel" button on the United.com website, the flight was—as promised—irreversibly cancelled; but when using the flight's value on another United flight, **a \$125.00 fee was required to book that other flight** for each Plaintiff, which constitutes a blatant breach of the "[n]o change fee **will be required**" agreement. Plaintiffs were forced to pay the required money in order to obtain any value from the cancelled flight.

14. Countless consumers have made statements on the Internet **and to United** detailing their frustration with United's contract breaches by which United requires payment of money after having promised that no such payment would be required if the consumer chose to cancel the flight. Comments posted on-line in recent months by "Israel Robbins" and "Elaine" state (emphases added):

I cancelled [my United flight] and was given a credit of my purchase amount of \$296.20 to use within one year. **When I called to use my credit they [sic] want me to pay an additional \$200 for changes** If you can help please do so. I have a family to take care of and I can't give away any money like this I have been arguing and frustrated with United airlines about getting my \$600.00 refund ticket back or a [sic] use another ticket. . . . United has given us the run around. . . . **I believe United does this to many people and the customer just gives up. I am so tired of all the hoops and terrible bad business practices of United Airlines policies. I have all documentation and refund codes but they [sic] won't help us. Any help out there**

for our family? This is a breach of contract or maybe a class action suit. Please help us.

And as long ago as January 25, 2017, United indicated on the social media website Facebook.com that it had received the detailed explanation by customer "Andrew Barton" of how United's website was routinely making contracts that its reservation systems and personnel had no intention of honoring (emphasis added):

I have cancer and my oncologist needs to see me 02/22/17 at 730 am. cannot get another appt that week, if i skip it i will not be able to continue the clinical trial i am on now. So i need to modify the outgoing flight(s) ticket #0162330616279, 0162330616280. I called cust svc spoke to an[] agent, told her my issue and she said it would cost me \$125 for both my tickets, i informed her that it says on the website "save the value of your ticket to use toward another United flight within one year of the issue date, NO CHANGE FEE WILL BE REQUIRED." THE SECOND AGENT SAID THAT I WOULD BE CHARGED \$125 PER TICKET. We went back and forth until i asked to speak to a supervisor, I was promptly disconnected. Called back again got Third agent Again the agent insisted i was wrong. I asked for a supervisor whom immediately began to talk over me and repeat herself in a rude manner, we went round and round and then she said "sir i have told you this a million times..." . . . ***I was on the phone for over an hour and a half with no resolution at all***

CLASS ACTION ALLEGATIONS

15. Plaintiffs bring this action on behalf of themselves and all persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure. This action satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of each of those provisions. The Class is defined as follows:

All individuals who within the past six years contracted with United to cancel a flight pursuant to United's agreement executed on its website that no change fee would be required to subsequently use the ticket's value towards another United flight within a year but whom were charged money in order to utilize the original flight's value or will be charged money when utilizing the original flight's value. Excluded from the Class are: (1) employees of the Defendants, including their officers or directors; (2) Defendants' affiliates, subsidiaries, or co-conspirators; and (3) the Court to which this case is assigned.

16. Plaintiffs do not know the exact number of Class members because such information is in the exclusive control of the Defendants. However, Plaintiffs believe that due to the nature of the trade and commerce involved and the identical language utilized on United's website, Class members are sufficiently numerous, most likely many thousands of consumers, and geographically dispersed throughout the United States, such that joinder of all

Class members is impracticable. The information as to the identity of the Class members can be readily determined from records maintained by the Defendants, because all flight records are recorded in Defendants' written and electronic records.

17. Plaintiffs' claims are typical of, and not antagonistic to, the claims of the other Class members because Plaintiffs were injured by Defendants' practices and by asserting their claims, Plaintiffs will also advance the claims of all members of the Class who were damaged by the same wrongful conduct of Defendants and their co-conspirators as alleged herein, and the relief sought is common to the Class.

18. The common legal and factual questions which do not vary from Class member to Class member, and which may be determined without reference to individual circumstances of any Class member, include, but are not limited to, the following:

a. Did Defendants' breach their agreement that no change fee would be due if the passengers cancelled their respective flight and attempted to use the ticket's value within one year by subsequently requiring a minimum payment of \$125.00 to book the new flight?

b. What is the appropriate measure of damages for Defendants' breach of contract?

c. Was United's policy deliberate such that punitive damages may be awarded? and

d. Are Plaintiffs and the Class Members entitled to the injunctive and equitable relief requested herein to enjoin United's continuing contract breaches?

19. These common questions and others predominate over questions, if any, that affect only individual members of the Class.

20. The claims of the representative Plaintiffs are typical of the claims of the Class. There are no material conflicts with any other member of the Class that would make class certification inappropriate. Plaintiffs and counsel will fairly and adequately represent the interests of the Class.

21. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome on the courts if individual litigation of numerous cases would proceed. By contrast, the conduct of this action as a class action, with respect to some or all of the issues presented in this Complaint, presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

22. Prosecution of separate actions by individual Class members would create the risk of inconsistent or varying adjudications, establishing incompatible standards

of conduct for the Defendants, and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same factual issues.

23. Injunctive relief is appropriate as to the Class as a whole because Defendants have acted or refused to act on grounds generally applicable to the Class.

24. Whatever difficulties may exist in the management of the class action will be greatly outweighed by the benefits of the class action procedure, including, but not limited to, providing Class members with a method for the redress of claims that may otherwise not warrant individual litigation: As detailed in multiple comments posted in recent months on the Internet, individual consumers typically lack the resources, ability, and knowledge to legally pursue their respective remedy of a rightful refund after United's successful strategy to incredulously deny compensation. Two Comments posted by "Israel Robbins" and "Elaine" explain (emphases added):

I cancelled [my United flight] and was given a credit of my purchase amount of \$296.20 to use within one year. ***When I called to use my credit they want [sic] me to pay an additional \$200 for changes If you can help please do so. I have a family to take care of and I can't give away any money like this I have been arguing and frustrated with United airlines about getting my \$600.00 refund ticket back or a [sic] use another ticket. United has given us the run around. . . . I believe United does this to many people and the customer just gives up. I am so tired of all the hoops and terrible bad business practices of***

United Airlines policies. I have all documentation and refund codes but they [sic] won't help us. Any help out there for our family? This is a breach of contract or maybe a class action suit. Please help us.

CAUSE OF ACTION
(BREACH OF CONTRACT)

25. Plaintiffs incorporate and reallege, as though fully set forth herein, each of the paragraphs above.

26. As a result of Defendants' breach of the agreement, Plaintiffs suffered damages of a two hundred and fifty dollar (\$250.00) payment that United required them to pay in order to book another United flight that used the cancelled flight's value within a year.

27. Plaintiffs also seek injunctive relief prohibiting such conduct in the future.

WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

PRAYER FOR RELIEF

1. Certification of the proposed Class and notice and claims administration to be paid by Defendants;
2. Statutory damages;
3. Compensatory, general, incidental, and consequential damages according to proof;
4. Special damages according to proof;
5. Punitive damages to punish Defendants for their willful illegal and deliberate contract breaches and to

deter others who may otherwise engage in similar willful illegal and deliberate conduct;

6. Restitution and disgorgement according to proof;
7. Injunctive relief against Defendants, and each of them, to prevent future wrongful contract breaches;
8. Prejudgment interest at the maximum legal rate;
9. Costs of the proceedings herein;
10. Reasonable attorneys' fees; and
11. All such other and further relief as the Court deems just.

Dated: June 30, 2017

Respectfully submitted,

By: ___/s/_Stephen J. Simoni___
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*Counsel for Plaintiffs and
the Proposed Class*

DEMAND FOR JURY TRIAL

Plaintiffs on behalf of themselves and all others similarly situated hereby request a jury trial on all claims so triable.

Dated: June 30, 2017

Respectfully submitted,

By: ___/s/_Stephen J. Simoni___

EXHIBIT A

<p>30, 2017 CO, US (DEN)</p>	<p>Arrive: 4:48 p.m. Fri., Jun. 30, 2017 Jackson Hole, WY, US (JAC)</p>	<p>Flight Time: 1 hr 31 mn Travel Time: 6 hr 38 mn</p>	<p>Flight: UA4583 Operated By: GoJet Airlines dba United Aircraft: Canadair Regional Jet 700 Fare Class: United Economy (YN) Meal: None No Special Meal Offered.</p>
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What would you like to do?

Change a flight

Make changes to your travel dates, times or airports.

A change fee of up to \$200 per traveler may apply. If your new flight costs more than your original flight, you'll also pay the fare difference.

See options

Cancel reservation

Save the value of your ticket to use toward another United flight within one year of the original issue date.

No change fee will be required.

Choose to cancel

Request a refund

Cancel and refund your entire reservation for all travelers.

A redeposit fee of \$125.00 per traveler may apply.

View refund options

You save money by changing or cancelling your reservation online, as a service charge applies to all changes made by phone. If you do need to speak with a United representative, call 1-800-United-1(1-800-864-8331) within the U.S. and Canada, elsewhere contact your local [United Customer Contact Center](#).